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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.3041 OF 1996

Satprakash Sharma ...Plaintiff
V/s.
Deepak Bahry ...Defendant

Mr.R.R. Sharma, Advocate, for the Plaintiff.

CORAM : ABHAY S. OKA, J.
DATE : 24TH OCTOBER, 2007.

JUDGMENT :-

1. On 17th November, 1997, the unconditional leave to defend was granted by this Court to the defendant. However written statements have not been filed till today. Therefore, by order dated 9th October, 2007, the Suit is ordered to be listed under the caption "For Want of Written Statement".

2. The Suit is for recovery of a sum of Rs.1,45,441.14 together with interest on principal amount.

3. According to the case of the plaintiff, his business is of publicising of feature films on commercial broadcasting service of All India Radio and Television. The defendant is the producer of the feature films. By letter dated 5th January, 1990, the

defendant authorised the plaintiff for publicising a particular film. Accordingly, the plaintiff gave necessary publicity to the feature film and submitted five different bills amounting to Rs.84,547.50. According to the case of the plaintiff, on several requests made to the defendant, ultimately defendant issued a cheque in the sum of Rs.50,000/- on 12th June, 1993. Thereafter, there is correspondence made by the plaintiff calling upon the defendant to pay the balance amount. It is stated in the plaint that an intimation was received from the bankers that the said cheque was dishonoured. The intimation was received on 29th July, 1993. The plaintiff has claimed interest on unpaid bills @ 24% p.a. upto the date of institution of the Suit.

4. The plaintiff has filed an affidavit for proving his claim in the Suit. The plaintiff has placed on record all the original documents including the office copies of the bills on which the claim has been based. He has also produced the dishonoured cheque and intimation of the bank recording dishonour of the cheque. Office copies of the correspondence made by the plaintiff with the defendant and the postal acknowledgments of the defendant are also placed on record. The affidavit and the documents

prove the claim of the plaintiff. Apart from the aforesaid material, under Sub-Rule 6 of Rule 3 of Order 37 of the Code of Civil Procedure, 1908, the plaintiff is entitled to a decree.

5. The prayer made by the plaintiff for further interest is @ 24% p.a. Considering the facts and circumstances of the case, the further interest deserves to be granted @ 9% p.a.

6. Hence the Suit is decreed in terms of prayer clauses (a) and (b) with a modification that further interest will be @ 9% p.a. on the principal amount of Rs.84,547.50 from the date of institution of the Suit till realization or payment.

7. The plaintiff will be entitled to refund of Court fees, if any, as per the Rules. Certified copy is expedited.

[ABHAY S. OKA, J.]